



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0788; EPA-R05-OAR-2020-0353; FRL-9879-02-R5]

**Air Plan Approval; Indiana; Infrastructure SIP Requirements for
the 2015 Ozone NAAQS and References to the Code of Federal
Regulations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) submission from Indiana regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is also approving revisions to the Indiana SIP that would incorporate by reference a more recent edition of the Code of Federal Regulations (CFR). EPA proposed this action on June 29, 2022, and received no comments.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0788 or EPA-R05-OAR-2020-0353. All documents in the docket are listed on the

www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Andrew Lee, Physical Scientist, at (312)-353-7645 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andrew Lee, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)-353-7645, *lee.andrew.c@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background Information.

On June 29, 2022 (87 FR 38693), EPA proposed to approve most elements of a November 2, 2018, submission from the Indiana Department of Environmental Management (IDEM) intended to address most applicable infrastructure requirements for the 2015

ozone NAAQS. Additionally, EPA proposed to approve a June 24, 2020, submission from IDEM that seeks to revise the Indiana SIP by incorporating by reference updated rules at 326 IAC 1-1-3 (References to the Code of Federal Regulations) with an effective date of April 4, 2020. The revision to 326 IAC 1-1-3 identifies that, unless otherwise indicated, any reference within 326 IAC to a provision of the CFR shall mean the July 1, 2018, edition. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on July 29, 2022. EPA received no comments on the proposal. Therefore, we are finalizing our action as proposed.

II. Final Action.

EPA is approving most elements of a submission from IDEM certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2015 ozone NAAQS. EPA is not acting on the interstate transport requirements of section 110(a)(2)(D)(i)(I) and visibility impairment requirements of section 110(a)(2)(D)(i)(II). EPA has proposed action in a separate rulemaking on the portion of the submission pertaining to the interstate transport requirements of section 110(a)(2)(D)(i)(I) with respect to the 2015 ozone NAAQS. See 87 FR 9838. EPA's actions for the state's satisfaction of infrastructure SIP

requirements, by element of section 110(a)(2), are contained in the table below.

Element	2015 Ozone
(A) - Emission limits and other control measures.	A
(B) - Ambient air quality monitoring/data system.	A
(C)1 - Program for enforcement of control measures.	A
(C)2 - Minor NSR.	A
(C)3 - PSD.	A
(D)1 - I Prong 1: Interstate transport - significant contribution to nonattainment.	NA
(D)2 - I Prong 2: Interstate transport - interference with maintenance.	NA
(D)3 - II Prong 3: Interstate transport - interference with PSD.	A
(D)4 - II Prong 4: Interstate transport - interference with visibility protection.	NA
(D)5 - Interstate and international pollution abatement.	A
(E)1 - Adequate resources.	A
(E)2 - State board requirements.	A
(F) - Stationary source monitoring system.	A
(G) - Emergency powers.	A
(H) - Future SIP revisions.	A
(I) - Nonattainment planning requirements of part D.	*
(J)1 - Consultation with government officials.	A
(J)2 - Public notification.	A
(J)3 - PSD.	A
(J)4 - Visibility protection.	*
(K) - Air quality modeling/data.	A
(L) - Permitting fees.	A
(M) - Consultation/participation by affected local entities.	A

In the above table, the key is as follows:

A	Approve
NA	No Action / Separate Rulemaking
*	Not germane to infrastructure SIPs

EPA is also approving the June 24, 2020, submission from Indiana, which revises the Indiana SIP by incorporating by reference the more recent July 1, 2018, edition of the CFR.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in Section I of this preamble and set forth in the amendments to 40 CFR part

52 below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov*, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

¹ 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian

reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 21, 2022.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Amend § 52.770 by:

a. In paragraph (c), amend the table by revising the entry for 1-1-3 “References to the Code of Federal Regulations” under Article 1, Rule 1 “Provisions Applicable Throughout Title 326”

b. In paragraph (e), amend the table by adding an entry for “Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS” after the entry for “Section 110(a)(2) Infrastructure Requirements for the 2008 8-Hour Ozone NAAQS”.

The revision and addition read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA--APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * *	* * *	* * *		
1-1-3	References to the Code of Federal Regulations	6/24/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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(e) * * *

EPA--APPROVED INDIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
* * *	* *	* *	
Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS	11/2/2018	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	All CAA infrastructure elements have been approved except (D)(i)(I) and the visibility portion of (D)(i)(II).
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[FR Doc. 2022-23335 Filed: 11/1/2022 8:45 am; Publication Date: 11/2/2022]